

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)	
)	
Petitioner,)	
)	
v.)	No. 15-0117RE
)	
)	
DONNA L. DIAMOND)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

On or about March 16, 2015, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. Donna L. Diamond*, No. 15-0117RE. In that Default Decision, the Administrative Hearing Commission found that Respondent Donna L. Diamond's real estate salesperson license (license no. 2000147055) is subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2(16), (18), and (19), RSMo.¹

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled complaint and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on June 3, 2015, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's license. All of the members of the Commission were present throughout

¹ All statutory references are to the Revised Statutes of Missouri 2000, as amended, unless otherwise indicated.

the meeting. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Nichole Bock. Respondent having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the properly pled Complaint and the Default Decision of the Administrative Hearing Commission in *Missouri Real Estate Commission v. Donna L. Diamond*, Case No. 15-0117RE, issued March 16, 2015, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent Donna L. Diamond as a real estate salesperson, license number 2000147055. Respondent's salesperson license was not current at all times relevant to this proceeding. On March 5, 2011, Respondent's salesperson license was

suspended due to Section 324.010 RSMo. and on September 30, 2014 Respondent's salesperson license expired due to failure to renew.

II.

CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the properly pled complaint and Default Decision issued by the Administrative Hearing Commission dated March 16, 2015, in *Missouri Real Estate Commission v. Donna L. Diamond*, Case No. 15-0117RE, takes official notice thereof, and hereby enters its conclusions of law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated March 16, 2015, Respondent's real estate salesperson license, number 2000147055, is subject to disciplinary action by the Commission pursuant to § 339.100.2(16), (18), and (19), RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

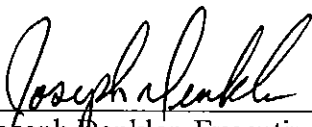
III.

ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate salesperson license of Donna L. Diamond (license no. 2000147055) is hereby **REVOKED**. All evidence of Respondent's licensure shall be immediately returned to the Commission. The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 339, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 8th DAY OF June, 2015.

MISSOURI REAL ESTATE COMMISSION



Joseph Denkler, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE COMMISSION,)

Petitioner,)

vs.)

No. 15-0117 RE)

DONNA L. DIAMOND,)

Respondent.)

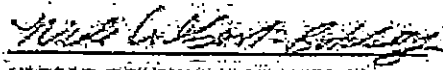
DEFAULT DECISION

On March 11, 2015, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by certified mail on January 31, 2015.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2013), we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on March 16, 2015.


NICOLE COLBERT BOTCHWAY
Commissioner

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

MISSOURI REAL ESTATE
COMMISSION
3605 Missouri Blvd.
P.O. Box 1339
Jefferson City, MO 65102-1339,

Petitioner,

v.

DONNA L. DIAMOND
18 Del Ray Court
St. Peters, MO 63376
Telephone: (314)304-2626

Respondent.

FILED

JAN 26 2015

ADMINISTRATIVE HEARING
COMMISSION

Case No. 15-0117 RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through its counsel, the Attorney General of the State of Missouri, states the following in support of its cause of action against Respondent:

1. The MREC is an agency of the State of Missouri, created and existing pursuant to § 339.120, RSMo (Cum. Supp. 2013),¹ for the purpose of executing and enforcing the provisions of §§ 339.010 to 339.180 and § 339.710 to 339.860, RSMo (as amended), relating to real estate salespersons and brokers.

¹All statutory citations are to the Revised Statutes of Missouri 2000, unless otherwise noted.

2. Donna L. Diamond ("Diamond") holds a Missouri real estate salesperson license, no. 2000147055. Diamond's license was suspended on March 5, 2011, pursuant to § 324.010, RSMo (Cum. Supp. 2013), because of her failure to pay Missouri income taxes or file Missouri tax returns. Diamond's license expired on September 30, 2014.

3. On or about May 24, 2013, Diamond pleaded guilty in the Circuit Court of St. Charles County, Missouri ("the court"), case no. 1211-CR03973-01, to four counts of the class C felony of forgery under § 570.090, RSMo (Cum. Supp. 2013).

4. Section 570.090, RSMo (Cum. Supp. 2013) states:

1. A person commits the crime of forgery if, with the purpose to defraud, the person:

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or

(2) Erases, obliterates or destroys any writing; or

(3) Makes or alters anything other than a writing, including receipts and universal product codes, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or

(4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing including receipts and universal product codes, which the actor knows has been made or altered in the manner described in this section.

2. Forgery is a class C felony.

5. Diamond also pleaded guilty in case no. 1211-CR03973-01 to two counts of the class C felony of stealing more than \$500.00 under § 570.030, RSMo (Cum. Supp. 2009).

6. Section 570.030, RSMo (Cum. Supp. 2009), stated in pertinent part:

1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

...

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars[.]

7. As a result of her guilty pleas in case no. 1211-CR03973-01, the court suspended imposition of Diamond's sentence and placed her on

probation for five years. The court also ordered Diamond to pay restitution in the amount of \$3,358.49.

8. Section 339.100.2, RSMo (Cum. Supp. 2013), which authorizes the MREC to file a complaint with the Administrative Hearing Commission seeking to discipline a real estate licensee, states in pertinent part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

...

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

...

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

9. Section 339.040.1, RSMo (Cum. Supp. 2013), relating to license requirements, provides in part:

1. Licenses shall be granted only to persons who present . . . satisfactory proof to the commission that they:

(1) Are persons of good moral character[.]

10. By pleading guilty to forgery and stealing, and engaging in the conduct underlying those crimes, Diamond demonstrated that she lacks good moral character, which is a basis for the MREC to refuse to issue a license under § 339.040.1(1), RSMo (Cum. Supp. 2013), providing cause to discipline Diamond's license pursuant to § 339.100.2(16), RSMo (Cum. Supp. 2013).

11. By pleading guilty to forgery and stealing, Diamond pled guilty to offenses reasonably related to the qualifications, functions, or duties of a real estate salesperson, and/or offenses involving fraud, dishonest, and/or moral turpitude, providing cause to discipline Diamond's license pursuant to § 339.100.2(18), RSMo (Cum. Supp. 2013).

12. Diamond's conduct of pleading guilty to forgery and stealing, and her conduct underlying those crimes, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith,

incompetence, misconduct, and/or gross negligence, providing cause to discipline Diamond's license under § 339.100.2(19), RSMo.

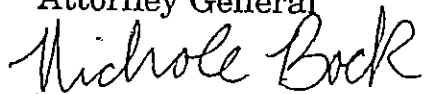
13. Cause exists to discipline Diamond's real estate salesperson license pursuant to § 339.100.2(16), (18) and (19), RSMo (Cum. Supp. 2013).

WHEREFORE, Petitioner requests that the Administrative Hearing Commission conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue its Findings of Fact and Conclusions of Law determining that Petitioner may take disciplinary action against Respondent's license as a real estate salesperson for the violations noted above, and for such other relief as the Commission deems appropriate.

Respectfully submitted,

CHRIS KOSTER

Attorney General



Nichole Bock

Assistant Attorney General

Missouri Bar No. 64222

Supreme Court Building

207 West High Street

P.O. Box 899

Jefferson City, MO 65102

Telephone: 573-751-4087

Telefax: 573-751-5660

Attorneys for Petitioner